

Applicants: Timothy P. AXE et al.
Application No. 10/664,372

REMARKS

Amendment to the Specification

The specification has been amended, at the paragraph beginning on page 5, line 17, to correct an inadvertent error. Specifically, this paragraph has been amended to recite that the exemplary embodiment shown in FIGS. 5-7 has eight longitudinally extending circumferentially spaced channels 26a-26h, not six as previously recited.

Election of Invention

In response to the restriction requirement in paragraph 1 of the Office Action, Applicants elect the invention of Group I, claims 1-39, directed to a container and/or a container sidewall. Pursuant to MPEP § 806.05(i), and upon allowance of the claims of Group I, Applicants reserve the right to rejoin the invention of Group II (method of forming a plastic container) if amended to include all of the limitations of allowable claims of Group I.

Election of Species

In response to the election of species requirement in paragraph 4 of the Office Action, Applicants elect the species of Figures 5-7 **with traverse**. All claims of Group I (*i.e.*, claims 1-39) read on the elected species.

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Traversal of the Election of Species Requirement

U.S. Patent and Trademark Office regulations state that when an “application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the case.” 37 C.F.R. §1.146. The Office Action identifies four different species in the instant application. However, all of the thirty-nine claims directed to the invention of elected Group I are generic to the alleged species of Figures 1-4 and Figures 5-7, and all or most of the 39 claims are generic to the alleged species of Figures 8A and 8B. Accordingly, Applicants assert that the number of species in the instant application is completely reasonable. Applicants further assert that the combined examination of the four identified species would not put an undue burden on the Examiner or on the U.S. Patent and Trademark Office because a thorough examination of any one of these species would require an identical search of the prior art (searching the identical classes and subclasses and using the same text search of the prior art). Further, each species would also have an identical classification under the U.S. Patent and Trademark Office’s classification system.

For the above reasons, Applicants respectfully request that the election of species requirement be withdrawn.

As noted by the Examiner, upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to species in addition to the elected species, provided that all claims to each additional species are written in dependent form or otherwise include all the

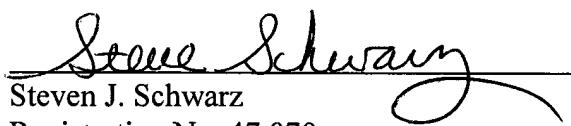
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limitations of an allowed generic claim as provided by 37 CFR § 1.146. Applicants note that at least independent claims 1, 13, 21, and 31 are generic.

In view of the above, Applicants respectfully request the examination on the merits of claims 1-39.

Respectfully submitted,

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